IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Con.Case(C).No. 1331 of 2007(S)

AGAINST THE JUDGEMENT/ORDER IN WPC.6641/2006 Dated 20/11/2006.

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PETITIONER:

THOMAS PHILIP, S/O. PHILIP,
ASSISTANT EXECUTIVE ENGINEER (RETD.),
KERALA STATE ELECTRICITY BOARD GENERATION CIRCLE,
MOOLAMATTOM, NOW R/A.3110, DETROIT STREET,DEARBORN MI-48124,USA,REP.BY HIS BROTHER AND P/A HOLDER,
JOSEPH PHILIP,PUNNASSERY(H),VELOOR P.O.,KOTTAYAM-3

BY ADV. SRI.GEORGE ABRAHAM

RESPONDENT:

SUBAIR T.,
AGED AND FATHER'S NAME NOT KNOWN, SECRETARY,
KERALA STATE ELECTRICITY BOARD, VYDHYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI. ASOK M.CHERIYAN, SC, KSEB

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V. GIRI ,J.

COC NO. 1331 of 2007

Dated this the 12th day of November, 2007

JUDGMENT

Mr.Asok Cherian , Standing Counsel for the Electricity Board has made available a copy of the letter addressed by the Secretary of the Electricity Board - the respondent in the Contempt of Court Case, to the Chief Engineer (HRA) on 9.11.2007. The letter indicates that there is a direction to the Chief Engineer to take necessary steps to disburse the eligible monetary benefits to the petitioner in compliance with the directions contained in the judgment dated 20.11.2006 in Writ Petition No.6641/2004. On a reading of the letter in its entirety one gets an impression that the Board apparently thought it necessary to take a decision to comply with the orders passed by this Court. If this is a view that is entertained by the Board, then I am afraid that the Board has not understood the law correctly. Where there is a direction by this Court in the nature of a mandamus, the respondent is bound to comply with the same. If it was not open to the Board to take a decision not to comply with the directions issued by this Court, then it follows as a consequence that a decision to comply with the directions as such

is a poor substitute for the actual compliance with the directions issued by this Court. Of course, the Board like any other party to a judgment passed by this Court is entitled to seek its remedies by way of an appeal. But the availability of such right which could be exercised by the Board does not detract from the binding nature of the directions issued by this Court and the obligation on the part of the Board to comply with the directions. Obviously the Board had no discretion to take a decision not to comply with the directions except if the Board thought that it would rather face the consequences under the Contempt of Courts Act than comply with the directions issued by this Court. The aforementioned observations have been made only in the light of the fact that some of the officials of the Board had apparently considered whether it is necessary to actually comply with the directions issued by this Court. Previous orders passed by this Court indicate that the learned standing counsel had time and again advised the Board to comply with the directions issued by this Court. Apparently wisdom dawned at a belated stage. A statutory functionary like the Electricity Board is expected to act in a more responsible fashion. I do not think it necessary to elaborate on these aspects further.

Apparently now there is a direction to the Chief Engineer to disburse the eligible monetary benefits to the petitioner. This must be done without any further delay lest the Board invites upon itself a further action at the instance of the petitioner in the Contempt of Court Case. In the facts and circumstances of the case, I do not think it is necessary to proceed with the Contempt of Court Case further. The same is therefore closed. In the nature of the observations made herein above, I request the standing counsel to communicate a copy of this judgment to the Chairman and the full time members of the Board.

V. GIRI, JUDGE

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